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12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

15 SAP AKTIENGESELLSCHAFT, a
 German corporation,

16 Plaintiff,

17 v.

18 i2 TECHNOLOGIES, INC., a Delaware
 corporation,

19 Defendant.

Case No. 4:07-cv-04187 SBA

**PLAINTIFF SAP AG'S SUPPLEMENTAL
 PRELIMINARY INFRINGEMENT
 CONTENTIONS**

[PATENT L.R. 3-1]

Judge: Hon. Sandra B. Armstrong

21 Pursuant to Patent L.R. 3-1 Plaintiff SAP Akteingesellschaft ("SAP") makes to Defendant
 22 i2 Technologies, Inc. ("i2") this Supplemental Disclosure of Asserted Claims and Preliminary
 23 Infringement Contentions. This disclosure addresses the addition of U.S. Patent No. 7,222,369
 24 (the '369 patent) to the lawsuit, and is filed pursuant to the instructions in the Court's April 8,
 25 2008 Order. This disclosure is a supplement to SAP's prior disclosures pursuant to Patent L.R. 3-
 26 1, and is not meant to replace or alter the content of such disclosures.

27 SAP's disclosures to date are preliminary. SAP has requested documents from i2; i2's
 28

1 productions have not yet been completed, either in response to these requests or pursuant to
2 Patent L.R. 3-4. SAP has also not completed its substantive review of the documents that have
3 been produced. SAP anticipates that the review of these documents, further discovery and other
4 events in the litigation may cause it to further revise, supplement, and/or otherwise modify its
5 infringement contentions and it makes this disclosure without prejudice to doing so.

6 **A. Patent L.R. 3-1(a)**

7 SAP alleges that i2 infringes at least claims 1, 2, 3, 5, 6, 7, 8, 11, 12, 15, 16, 17, 18, 21,
8 22, 23, 26, 27, 28, 29, 30, 31, and 32 of the '369 patent.

9 SAP anticipates that events in the litigation, such as substantive review of documents
10 produced by i2 to date, further discovery to be provided by i2 and/or by third parties and the
11 Court's claim construction may impact the patent claims it will allege i2 infringes. SAP reserves
12 the right to add to or otherwise modify its identification of claims it contends are infringed. SAP
13 additionally reserves the right to add to or otherwise modify its identification of the manner in
14 which claims are infringed.

15 **B. Patent L.R. 3-1(b)**

16 SAP preliminarily identifies that the Accused Instrumentalities include i2 Six Supply
17 Chain Collaboration Software Suite, and any other i2 solution that uses a role-based portal to a
18 workplace system.

19 SAP anticipates that events in the litigation, such as substantive review of documents
20 produced by i2 to date, further discovery to be provided by i2 and/or by third parties and the
21 Court's claim construction may impact the patent claims it will allege i2 infringes and the
22 Accused Instrumentalities it will allege infringe those patent claims. SAP reserves the right to
23 add to or otherwise modify its identification of claims it alleges are infringed and identification of
24 Accused Instrumentalities it contends infringe those claims. SAP additionally reserves the right
25 to add to or otherwise modify its identification of the manner in which claims are infringed.

26 **C. Patent L.R. 3-1(c)**

27 Attached hereto as Exhibit A is a chart preliminarily identifying where each element of
28 each asserted claim is found within the Accused Instrumentalities.

1 SAP's identification of Accused Instrumentalities above and/or in the accompanying chart
2 is Preliminary. SAP's identification of where elements of asserted claims may be found in the
3 Accused Instrumentalities also is preliminary. These identifications are based upon Plaintiff's
4 present knowledge and analysis. SAP continues its investigation and reserves its right to
5 supplement, amend, and/or revise its contentions as events in the litigation occur and SAP
6 conducts further investigation and/or analysis.

7 **D. Patent L.R. 3-1(d)**

8 SAP presently contends each element of each asserted claim is literally present in the
9 Accused Instrumentalities. SAP reserves its right to assert infringement under the Doctrine of
10 Equivalents in light of further discovery, investigation or analysis, the Court's claim construction,
11 events in the litigation, or positions advanced by i2.

12 **E. Patent L.R. 3-1(e)**

13 The claims of the '369 patent are entitled the priority date of December 20, 2001.

14 **F. Patent L.R. 3-1(f)**

15 Certain versions of SAP's Workplace, Enterprise Portal Tool, Product Lifecycle
16 Management practice the claimed invention in the asserted claims of the '369 patent.

17 SAP's contentions are made on information it has analyzed as of this date. Many
18 important pieces of discovery relevant to SAP's infringement contentions have not yet been made
19 or were made only so recently as to prevent meaningful analysis. SAP anticipates that
20 outstanding discovery and/or further analysis may impact its contentions and expressly reserves
21 the right to alter and supplement them. Further, in the event that new or different versions of the
22 Accused Instrumentalities are made, SAP anticipates that it may supplement its contentions with
23 respect to such versions.

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1 Nothing in this disclosure is intended to or does limit SAP's ability to present at trial, at
2 hearing on motion, or otherwise in support of or in opposition to a motion, or in other proceeding,
3 evidence, testimony, or argument in support of its contentions as to i2's infringement or for other
4 purposes. In particular, nothing limits the evidence SAP may introduce pursuant to Federal Rules
5 of Evidence 702, 703, or 705 or otherwise via witness providing expert testimony.

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7 Dated: April 23, 2008

FENWICK & WEST LLP

8 By: /s/Todd R. Gregorian

9 Todd R. Gregorian

10 Attorneys for Plaintiff SAP Aktiengesellschaft
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